UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,178	07/27/2000	Mathias Hellwig	GR 99 P 2403	1260

24131 7590 10/28/2004	EXAMINER
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	ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480	2661	

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	**Applicant(s)**
Advisory Action	09/627,178	HELLWIG ET AL.
	Examiner	**Art Unit**	
	Joshua Kading	2661	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>6</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *9 and 11-19*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

KENNETH VANDERPUYE
PRIMARY EXAMINER

U.S. Patent and Trademark Office

PTOL-303 (Rev. 11-03)   Advisory Action   Part of Paper No. 102004

Continuation of 5. does NOT place the application in condition for allowance because: With respect to only those limitations of the claims currently outstanding in the claims, applicant argues that Harriman does not disclose the storing of packets at the input port and that the sending of the header as the message to inform the output of data ready for transmission is not the same as the message as claimed by applicant. The examiner respectfully disagrees.

With respect to the storing of data at the input ports, applicant argues that figure 1, elements 112 and 115 store the data in the "middle" of the switching system. Although applicant is correct that the storage of data at element 112 appears to be in the "middle" of the system in figure 1, the actual memory unit could, in reality, be placed near the front or input of the switching system due to fabrication constraints or other factors not allowing the switching unit to appear exactly as in figure 1. One of ordinary skill in the art would recognize this and know that therefore, the data could be stored at the input because the location of element 112 could be at the input. If applicant intends to disclose the data is stored "in" the input port, Harriman provides for this as well. Applicant is directed to col. 7, lines 13-15 of Harriman. It is clearly stated here the the "each port" of the system has queues, which are used to store the incoming data. It should also be noted here that although Harriman goes on to only discuss the output ports of figure 1, one of ordinary skill in the art would recognize that the input ports can also contain the same queues used for temporarily storing data before it is processed by the system.

Regarding the use of the header as a message to inform the output of data ready for transmission, applicant argues that "the message according to the invention of the instant application does not correspond to the header of a data packet..." Claims 9 and 19 do not indicate or imply that the message cannot be the header of the packet. Further, page 2, lines 21-32 of the specification (since page 2 only goes up to line 26 it is assumed lines 27-32 correspond to lines 1-6 of page 3) also do not mention that the message cannot be a header. Since there is no further disclosure of what the message can and cannot consist of, the header and its use in Harriman fully read on applicant's claimed invention.

The new limitation of claims 9 and 19 is not discussed because the amendment filed 2 September 2004 will not be entered.

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